

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

IN THE MATTER OF S.B., A MINOR STUDENT,)
BY AND THROUGH HIS PARENTS,)
M.B. AND L.H.;)
)
M.S., A MINOR STUDENT,)
BY AND THROUGH HER PARENT, K.P.;)
)
T.W., A MINOR STUDENT,)
BY AND THROUGH HIS PARENTS, M.W.)
J.W., AND)
)
M.K. A MINOR STUDENT,)
BY AND THROUGH HER PARENT, S.K.)
)
)
PLAINTIFFS.) **DISTRICT JUDGE GREER**
)
)
VS.) **No. 3:21-cv-00317-JRG-DCP**
GOVERNOR BILL LEE, in his official)
capacity as GOVERNOR OF TENNESSEE, and)
KNOX COUNTY BOARD OF EDUCATION,)
)
DEFENDANTS.)

**JOINT MOTION OF PLAINTIFFS' AND KNOX COUNTY BOARD OF EDUCATION
TO DISMISS KNOX COUNTY BOARD OF EDUCATION WITH PREJUDICE**

COME THE PLAINTIFFS, S.B., a minor student, and M.B. and L.H., the student's parents/guardians, for their minor son; M.S., a minor student, and K.P., the student's parent/guardian, for her minor daughter; T.W., a minor student, and M.W. and J.W., the student's parent/guardian, for their minor son; and M.K. a minor student, and S.K, the student's

parent/guardian, for her minor daughter, along with Defendant, Knox County Board of Education (“KCBOE”), and file this Motion to Dismiss KCBOE with Prejudice pursuant to Fed. R. Civ. P. 21. They show:

1. Pursuant to this Court’s Order, all parties participated in a mediation on April 18, 2022 with Daryl Fansler serving as the mediator. (D.E. 130).

2. The Plaintiffs and Knox County reached a settlement of all matters pending between them in both the District Court and the Sixth Circuit Court of Appeals. (*Id.*) The Plaintiffs and Governor Lee were unable to reach a settlement. Accordingly, upon the proposed dismissal of KCBOE, Plaintiffs and Governor Lee will represent the sole remaining parties before the Court.¹

3. Where a Plaintiff dismisses fewer than all Defendants, “courts in this Circuit have [made] abundantly clear that Rule 21 is the appropriate rule under which a party may dismiss a single defendant.” *Crouch v. Equifax Info. Servs., LLC*, 2019 U.S. Dist. LEXIS 179522, at *3 (E.D. Ky. Oct. 17, 2019)(citing cases); *accord, Wilkerson v. Brakebill*, 2017 U.S. Dist. LEXIS 12305, at *6 (E.D. Tenn. Jan. 30, 2017)(Varlan, J.) (“A plaintiff seeking to dismiss only one defendant from an action must move the Court to do so under Rule 21.”)

4. Attached hereto is the Settlement Agreement reached by Plaintiffs and Knox County Board of Education. As shown, the Settlement Agreement involves moving to dissolve the current preliminary injunction (Exhibit at ¶1); Plaintiffs dismissing Knox County Board of Education with prejudice from this action (*Id.*); mutual releases (¶2); Knox County Board of Education dismissing its appeal in the Sixth Circuit Court of Appeals (¶3); payment of attorneys’ fees by Knox County Board of Education (¶4); and paying of the mediation fee (¶7).

¹ Unlike the Knox County Board of Education, Governor Lee has withdrawn his appeal of the preliminary injunction to the Sixth Circuit. Accordingly, upon the upcoming dismissal of Knox County’s appeal to the Sixth Circuit, this matter returns to the District Court.

5. Pursuant to Rule 21, a proposed Order is submitted herewith for the Court's consideration, consistent with the terms of the Settlement Agreement, dismissing Knox County Board of Education from this matter with prejudice.

Respectfully submitted,

GILBERT LAW, PLC

/s Justin S. Gilbert

Justin S. Gilbert (TN Bar No. 017079)
100 W. Martin Luther King Blvd, Suite 501
Chattanooga, TN 37402
Telephone: 423.756.8203

&

THE SALONUS FIRM, PLC

/s Jessica F. Salonus

JESSICA F. SALONUS (28158)
139 Stonebridge Boulevard
Jackson, Tennessee 38305
Telephone: (731) 300-0970
Facsimile: 731.256.5711

ATTORNEYS FOR PLAINTIFFS

/s David Sanders

/s Amanda Morse

David Sanders
Amanda Lynn Morse
Deputy Law Directors
400 Main Street, Ste. 612
Knoxville, TN 37902
O: (865) 215-2327
F: (865) 215-2936

ATTORNEYS FOR KNOX COUNTY BOARD OF EDUCATION

CERTIFICATE OF SERVICE

I certify that this Response was served upon counsel of record for the Defendants, David Sanders and Amanda Morse for KCBOE, and Reed Smith and Marty McCampbell for Governor Lee, through the Court's ECF filing system on April 25, 2022.

/s Jessica F. Salonus